BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
PAUL JOSEPH DURAN, M.D.	)	**File No: 06-2002-138792**
Physician's and Surgeon's Certificate #A 60506	)	
Respondent.	)	

DECISION AND ORDER

The attached Stipulated Surrender of License is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

The effective date of this Decision shall be deemed to be July 29, 2005.

IT IS SO ORDERED January 23, 2006

MEDICAL BOARD OF CALIFORNIA

Steve Alexander
Chair, Panel A
Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
KERRY WEISEL, State Bar No. 127522
Deputy Attorney General
DAVID CARR, State Bar No. 131672
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PAUL JOSEPH DURAN, M.D. 11645 Wilshire Blvd., Suite 1070 Los Angeles, California 90025 Physician and Surgeon's Certificate No. A 60506 Respondent.	Case No. 06 2002 138792 OAH No. 2005080799 **STIPULATION FOR SURRENDER OF LICENSE**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

1. Complainant David T. Thornton brought this action solely in his official capacity as the Executive Director of the Medical Board of California ("Medical Board" or "board"). Complainant is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Kerry Weisel and David Carr, Deputy Attorneys General.

2. Respondent Paul Joseph Duran, M.D. ("respondent") is represented in this proceeding by attorney Mark A. Levin of Lewin & Levin.

3. On June 28, 1996, the board issued Physician and Surgeon's Certificate No. A 60506 to respondent Paul Joseph Duran, M.D. Unless renewed, it will expire on February 28, 2006.

4. An Accusation in case No. 06 2002 138792 was filed on October 24, 2003 before the Division of Medical Quality ("division"), Medical Board of California, Department of Consumer Affairs. A First Amended Accusation was filed in the case on December 21, 2004 and a Second Amended Accusation ("Accusation") was filed on July 29, 2005. A copy of the Second Amended Accusation is attached as Exhibit A and incorporated by reference in this stipulation.

5. On July 29, 2005, after holding a hearing pursuant to Government Code section 11529(d), the Office of Administrative Hearings issued an Interim Suspension Order prohibiting respondent from practicing medicine until a final decision is issued on the Accusation filed in this matter.

6. Respondent has carefully read and understands the nature of the charges and allegations in the Accusation and the effects of this Stipulation for Surrender of License.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf, the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. For the purpose of resolving Case No. 06 2002 138792 without the expense and uncertainty of further proceedings, respondent gives up his right, as set forth in paragraph 7, above, to contest that cause for discipline exists and admits that there is a factual and legal basis for imposition of discipline against his physician and surgeon's certificate under Business and Professions Code sections 2227 and 2234.

9. All admissions and recitals contained in this stipulation are made solely for the purpose of settlement in this proceeding and for any other proceedings in which the

Division of Medical Quality, Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceedings.

10. Respondent understands that by signing this stipulation he is enabling the Division of Medical Quality to issue its order accepting the surrender of his license without further process. He understands and agrees that Medical Board's staff and counsel for complainant may communicate directly with the division regarding this stipulation without notice to or participation by respondent or his counsel. If the division fails to adopt this stipulation as its Order, the Stipulation for Surrender of License, except for this paragraph, shall be of no force or effect. The Stipulation for Surrender of License shall be inadmissible in any legal action between the parties and the division shall not be disqualified from further action by having considered this matter.

11. Upon acceptance of the stipulation by the division, respondent understands that he will no longer be permitted to practice as a physician in California.

12. Respondent fully understands and agrees that if he ever files an application for relicensure or reinstatement in the State of California, the division shall treat it as a petition for reinstatement and respondent will comply with all the laws, regulations, and procedures for reinstatement of a revoked license in effect at the time the petition is filed, except that respondent may petition the board for reinstatement after a period of not less than two years has elapsed following the effective date of this decision. Respondent understands and agrees further that all of the allegations and Causes for Discipline contained in the Second Amended Accusation in Case No. 06 2002 138792 will be deemed to be true and correct by respondent when the division determines whether to grant or deny the petition. Respondent hereby waives any time-based defense he might otherwise have to the charges contained in the Accusation in Case No. 06 2002 138792, including but not limited to the equitable defense of laches.

13. The board agrees that the effective date of the decision in this matter shall be July 29, 2005, the date the Interim Suspension Order issued and the date that respondent ceased practicing medicine.

14. The parties agree that facsimile copies of this Stipulation for Surrender of License, including facsimile signatures on it, shall have the same force and effect as the original Stipulation for Surrender of License.

ACCEPTANCE

I, Paul Joseph Duran, M.D., have carefully read the above stipulation and have fully discussed the terms and conditions and other matters contained therein with my attorney Mark Levin. I enter into it freely and voluntarily and, with full knowledge of its force and effect, do hereby agree to surrender my physician and surgeon's certificate No. A 60506 to the Division of Medical Quality, Medical Board of California for its formal acceptance. By signing this stipulation to surrender my license, I recognize that I will lose all rights and privileges to practice as a physician and surgeon in the State of California.

DATED: 08 DEC 05.

PAUL JOSEPH DURAN, M.D.
Respondent

I have read and fully discussed with respondent Paul Joseph Duran, M.D. the terms and conditions and other matters contained in the above Stipulation for Surrender of License. I approve its form and content.

DATED: 12-8-05.

MARK A. LEVIN

Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulation for Surrender of License is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: December 22, 2005.

BILL LOCKYER, Attorney General
of the State of California

KERRY WEISEL
Deputy Attorney General

Attorneys for Complainant

Exhibit A:

Second Amended Accusation Case No. 06 2002 138792

BILL LOCKYER, Attorney General
of the State of California
KERRY WEISEL, State Bar No. 127522
Deputy Attorney General
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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PAUL JOSEPH DURAN, M.D. 11645 Wilshire Blvd., Suite 1070 Los Angeles, California 90025 Physician's and Surgeon's Certificate No. A 60506 Respondent.	Case No. 06 2002 138792 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. David T. Thornton ("complainant") brings this Second Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California.

2. On June 28, 1996, the board issued Physician's and Surgeon's Certificate No. A 60506 to respondent Paul Joseph Duran, M.D. This certificate expires on February 28, 2006.

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JURISDICTION

3. This Second Amended Accusation is brought before the Medical Board of California ("Medical Board" or "board"), under the authority of the following sections of the Business and Professions Code.[1]

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division of Medical Quality ("division") deems proper.

5. Section 2234 of the Code provides in pertinent part that the division "shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating . . . any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and

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1. All statutory references are to the Business and Professions Code unless otherwise indicated.

distinct breach of the standard of care.

"(d) Incompetence.

". . . ."

6. Section 725 provides, in part, that repeated acts of clearly excessive prescribing or administering of drugs or treatment as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon.

7. Section 726 states that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under the Business and Professions Code division that includes the Medical Practice Act.

8. Section 2242(a) provides that prescribing, dispensing, or furnishing dangerous drugs as defined in section 4022 without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct.

9. Section 4022 defines a "dangerous drug" as any drug unsafe for self-use, including any drug which may be lawfully dispensed only by prescription or furnished pursuant to section 4006.

10. Section 2238 provides that a violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

11. Section 2266 provides that "failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

12. Section 4170 provides, in pertinent part, that "(a) [n]o prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

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(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

". . . .

"(c) "Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate . . . and who is duly registered as such by the Medical Board of California . . . ."

13. Section 4076 imposes the following labeling requirements upon pharmacists and, by way of section 4170, on physicians:

"(1) Except where the prescriber . . . orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. . . . .

"(2) The directions for the use of the drug.

"(3) The name of the patient or patients.

"(4) The name of the prescriber . . . .

"(5) The date of issue.

"(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

"(7) The strength of the drug or drugs dispensed.

"(8) The quantity of the drug or drugs dispensed.

"(9) The expiration date of the effectiveness of the drug dispensed.

"(10) The condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription."

14. Section 125.3 of the Code provides, in part, that the board may request the administrative law judge to direct any licentiate found to have committed a violation or violations of the licensing act, to pay the board a sum not to exceed the reasonable costs of the

investigation and enforcement of the case.

15. Welfare and Institutions Code section 14124.12 provides, in part, that a physician whose license has been placed on probation by the Medical Board shall not be reimbursed by Medi-Cal for "the type of surgical service or invasive procedure that gave rise to the probation."

DRUGS

16. Actiq, a trade name for oral transmucosal fentanyl citrate, is a potent opioid analgesic, intended for oral transmucosal administration. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code. Actiq is indicated only for the management of breakthrough cancer pain in patients with malignancies who are already receiving and who are tolerant to opioid therapy for their underlying persistent cancer pain. Fentanyl is a mu-opioid agonist and a Schedule II controlled substance that can produce drug dependence of the morphine type. The concomitant use of other CNS depressants, including other opioids, sedatives or hypnotics, general anesthetics, phenothiazines, tranquilizers, skeletal muscle relaxants, sedating antihistamines, potent inhibitors of cytochrome P450 3A4 isoform, and alcoholic beverages may produce increased depressant effects. Hypoventilation, hypotension, and profound sedation may occur. The initial dose of Actiq to treat episodes of breakthrough cancer pain should be 200 mcg. Each patient should be individually titrated to provide adequate analgesia while minimizing side effects.

17. Adderall, a trade name for mixed salts of a single-entity amphetamine product (dextroamphetamine sulphate, dextroamphetamine saccharate, amphetamine sulfate, amphetamine aspartate), is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code. Adderall is indicated for Attention Deficit Disorder with Hyperactivity and Narcolepsy. It is contraindicated for patients with a history of drug abuse. Caution is to be exercised in prescribing amphetamines for patients with even mild hypertension. The least amount feasible should be prescribed or

dispensed at one time in order to minimize the possibility of overdosage. Amphetamines have been extensively abused. Tolerance, extreme psychological dependence, and severe social disability have occurred. there are reports of patients who have increased the dosage to many times that recommended. For Narcolepsy, the usual dose is 5 mg to 60 mg per day in divided doses depending on individual patient response.

18. Demerol, a trade name for meperidine hydrochloride, is a narcotic analgesic, a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055 of the Health and Safety Code. Demerol can produce drug dependence of the morphine type and therefore has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of Demerol and it should be prescribed and administered with the same degree of caution appropriate to the use of morphine. Because of the potential for interaction with other central nervous system depressants, Demerol should be used with great caution and in reduced dosage in patients who are concurrently receiving other narcotic analgesics, general anesthetics, phenothiazines, other tranquilizers, sedative-hypnotics, and other central nervous system depressants. Respiratory depression, hypotension, and profound sedation or coma may result. The usual adult dosage for pain relief is 50 mg. to 150 mg. every three or four hours.

19. Dilaudid is a trade name for hydromorphone hydrochloride. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic. Its principal therapeutic use is relief of pain. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of narcotics; therefore, Dilaudid should be prescribed and administered with caution. Physical dependence, the condition in which continued administration of the drug is required to prevent the appearance of a withdrawal syndrome, usually assumes clinically significant proportions after several weeks of continued use. Side effects include drowsiness, mental clouding, respiratory depression, and vomiting. Patients receiving other narcotic analgesics and other central nervous system depressants may exhibit an additive central nervous system depression. When such

combined therapy is contemplated, the use of one or both agents should be reduced.

20. The fentanyl patch infuses a patient with fentanyl via a transdermal system. Fentanyl is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code. The fentanyl patch is a strong opioid medication and is indicated only for treatment of chronic pain (such as that of malignancy) that cannot be managed by lesser means and requires continuous opioid administration. The fentanyl patch presents a risk of serious or life-threatening hypoventilation. When patients are using the fentanyl patch, the dosage of central nervous system depressant drugs should be reduced at least 50%. Use of the fentanyl patch together with other central nervous system depressants, including alcohol, can result in increased risk to the patient. It should be used with caution in individuals with a history of alcohol or drug abuse, particularly if they are outside of an medically controlled environment. Fentanyl can produce drug dependence similar to that produced by morphine and has the potential for abuse. It is physically and psychologically addictive. Fentanyl patches are available in 25 mcg/hour, 50 mcg/hour, 75 mcg/hour and 100 mcg/hour. Patches over 25 mcg/hour should only be used in opioid tolerant patients. Fentanyl-100 patches contain 10 mg fentanyl and provide analgesic effects approximately equivalent to 315-404 mg of oral morphine per day. Since there has been no systematic evaluation of fentanyl patches as an initial opioid analgesic in the management of chronic pain, the lowest dosage, 25 mcg per hour, should be used as the initial dose for chronic pain.

21. Fiorinal is a trade name for an analgesic containing 50 mg. of butalbital, a barbiturate, caffeine, and aspirin. It is a dangerous drug as defined in section 4022 and a Schedule III controlled substance and narcotic as defined by section 11056 of the Health and Safety Code. Pharmacologically, Fiorinal combines the analgesic properties of aspirin with the anxiolytic and muscle relaxant properties of butalbital. Butalbital, acetaminophen, and caffeine may enhance the effects of other narcotic analgesics, alcohol, general anesthetics, tranquilizers, sedative-hypnotics, or other CNS depressants, causing increased CNS depression. Tolerance, psychological dependence, and physical dependence may occur especially following prolonged

use of high doses of barbiturates.

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22. Hydrocodone bitartrate w/APAP (hydrocodone bitartrate with acetaminophen) tablets are produced by several drug manufacturers under trade names such as Vicodin, Norco or Lortab. Hydrocodone bitartrate is semisynthetic narcotic analgesic, a dangerous drug as defined in section 4022, and a Schedule III controlled substance and narcotic as defined by section 11056, subdivision (e) of the Health and Safety Code. Repeated administration of hydrocodone over a course of several weeks may result in psychic and physical dependence and tolerance. Therefore, hydrocodone should be prescribed and administered with caution. Patients using other CNS depressants concomitantly with hydrocodone may exhibit an additive CNS depression. When combined therapy is contemplated, the dose of one or both agents should be reduced. Dosage should be adjusted according to the severity of the pain and the response of the patient. However, it should be kept in mind that tolerance to hydrocodone can develop with continued use and that the incidence of untoward effects is dose related. Hydrocodone bitartrate with APAP or acetaminophen tablets are supplied in varying strengths ranging from 2.5/500 tablets which contain 2.5 mg hydrocodone bitartrate and 500 mg acetaminophen to 10/660 tablets which contain 10.0 mg hydrocodone bitartrate and 660 mg acetaminophen. The maximum 24 hour dosage of acetaminophen should not exceed 4000 mg. At high levels, acetaminophen can cause liver toxicity and even death. With the ingestion of 10,000 mg to 15,000 mg of acetaminophen, severe liver damage is a significant risk.

23. Methadone hydrochloride is a synthetic narcotic analgesic with multiple actions quantitatively similar to those of morphine. It also goes by the trade names Methadose and Dolophine. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (c) of the Health and Safety Code. Methadone can produce drug dependence of the morphine type and, therefore, has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of methadone, and it should be prescribed and administered with the same degree of caution appropriate to the use of morphine. Methadone

should be used with caution and in reduced dosage in patients who are concurrently receiving other narcotic analgesics.

24. Methylphenidate hydrochloride (trade names Methylin, Concerta, Metadate, Ritalin) is a CNS stimulant indicated for the treatment of attention deficit hyperactivity disorder ("ADHD"). Methylphenidate should be given cautiously to patients with a history of drug dependence or alcoholism. Chronic abusive use can lead to marked tolerance and psychological dependence with varying degrees of abnormal behavior. The minimum dosage is one, 18 mg. tablet daily; the maximum dosage is one, 54 mg. tablet daily. Methylphenidate is a dangerous drug as defined in section 4022 of the Code and a Schedule II controlled substance under Health and Safety Code section 11055(d)(6).

25. MS Contin is a trade name for morphine sulfate controlled release tablets. MS Contin 30 mg tablets contain 30 mg. morphine sulfate. Morphine sulfate is for use in patients who require a potent opioid analgesic for relief of moderate to severe pain. Morphine is a dangerous drug as defined in section 4022, a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Morphine can produce drug dependence and has a potential for being abused. Tolerance and psychological and physical dependence may develop upon repeated administration. Abrupt cessation or a sudden reduction in dose after prolonged use may result in withdrawal symptoms. After prolonged exposure to morphine, if withdrawal is necessary, it must be undertaken gradually.

26. MSIR is a trade name for immediate release morphine sulfate capsules. Morphine is a dangerous drug as defined in section 4022, a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. See MS Contin, above.

27. Oxycontin is a trade name for oxycodone hydrochloride controlled-release tablets. Oxycodone is a white odorless crystalline powder derived from the opium alkaloid, thebaine. It is a pure agonist opioid whose principal therapeutic action is analgesia. Other therapeutic effects of oxycodone include anxiolysis, euphoria, and feelings of relaxation. Oxycodone is a dangerous drug as defined in section 4022 and a schedule II controlled substance

and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Respiratory depression is the chief hazard from all opioid agonist preparations. Oxycontin should be used with caution and started in a reduced dosage (1/3 to 1/2 of the usual dosage) in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers, and alcohol. Interactive effects resulting in a respiratory depression, hypotension, profound sedation or coma may result if these drugs are taken in combination with the usual doses of Oxycontin. Oxycontin has an abuse liability similar to morphine. Delayed absorption, as provided by Oxycontin tablets, is believed to reduce the abuse liability of a drug.

28. OxyIR is a trade name for immediate release oxycodone hydrochloride capsules. Oxycodone is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. See Oxycontin, above.

29. Ritalin. See methylphenidate hydrochloride, above.

30. Valium is a trade name for diazepam, a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence. Valium is available in 5 mg. and 10 mg. tablets. The recommended dosage is 2 to 10 mg. 2 to 4 times daily.

31. Vicodin. See hydrocodone bitartrate with APAP, above (hydrocodone bitartrate with acetaminophen). Vicodin tablets contain 5.0 mg of hydrocodone bitartrate and 500 mg of acetaminophen and Vicodin ES tablets contain 7.5 mg of hydrocodone bitartrate and 750 mg of acetaminophen. The total 24 hour dose of Vicodin should not exceed eight tablets; the total 24 hour dose of Vicodin ES should not exceed five tablets.

FACTS

32. At all times relevant to this matter, Dr. Duran practiced medicine in and around Los Angeles, California.

PATIENT GG[2]

33. Dr. Duran is an anesthesiologist with a subspecialty in pain management. Prior to October 3, 2002, Dr. Duran had relinquished his privileges to practice medicine at Saint John's Health Center in Santa Monica.

34. In 2001, Dr. Duran or his former partner treated Patient GG, a male physician, for severe neck pain.

35. In June 2002, GG came to Dr. Duran complaining of abdominal pain. On June 26, 2002, Dr. Duran performed a celiac plexus block on GG but the procedure did not relieve the abdominal pain.

36. GG had a history of addiction to opioid medications. Dr. Duran acknowledges that this history was known to him.

37. On September 29, 2002, GG was hospitalized at Saint John's Health Center because of his abdominal pain. On or shortly after the day GG was admitted, GG's colleague Oscar Hernandez, M.D. informed Dr. Duran that GG had been hospitalized and asked him to visit GG on a consultative basis. Dr. Duran saw GG at Saint John's two times, but did not document his visits in the hospital chart.

38. On October 3, 2002, GG telephoned Dr. Duran. GG told Dr. Duran that he was going to be discharged from the hospital and asked him for pain medication. GG's primary treating physician at Saint John's was a gastroenterologist, Robert Elson, M.D. Neither GG nor Dr. Duran informed Dr. Elson of GG's request for analgesic medication.

39. Dr. Duran, though aware of GG's addiction to opioids, decided to provide opioid medication to GG before he left the hospital for his use after he was discharged. Dr. Duran did not conduct a physical examination of GG and did not notify Dr. Elson about his

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2. The patients are referred to by their initials in this document to protect their privacy. Respondent knows their identities and can confirm them through discovery.

decision to provide GG with the medications.

40. On October 3, 2002, Dr. Duran gave his medical assistant, Martha Guzman, two small envelopes containing Vicodin and methadone, respectively, and instructed her to deliver them to GG at Saint John's. Dr. Duran did not label the envelopes and did not include instructions with the medications.

41. Ms. Guzman went to Saint John's with the envelopes, found GG in the hallway, and handed the envelopes to him. Jennifer Wojtalik, L.V.N., a nurse at the hospital, observed Ms. Guzman hand what appeared to be a yellow piece of paper to GG after which GG went immediately into his room and shut the door. Nurse Wojtalik informed her supervisor, Pat Waldron, R.N., and Dr. Elson about the encounter between Ms. Guzman and GG.

42. Dr. Elson and Nurse Waldron had Kesang Doklar, R.N. search GG's room for the item. Nurse Doklar entered the room and, with GG's permission, searched it. Nurse Doklar found two yellow envelopes containing pills in GG's bedside table and seized them.

43. After learning from GG that Dr. Duran had arranged for him to receive the pills, Dr. Elson was extremely angry. He spoke to Dr. Duran by telephone. Dr. Duran told Dr. Elson that the pills were Vicodin and "Selaxin."

44. The pills were taken to Theresa Fan, the hospital pharmacist, for analysis. She confirmed that the pills in one of the envelopes were Vicodin tablets but found that the medication that Dr. Duran had called Selaxin was actually methadone. In fact, it does not appear that there is any drug with the name "Selaxin."

45. Dr. Duran did not record any of his interactions with GG in GG's hospital record including the fact that he had provided him with controlled substances.

46. It was Dr. Duran's practice to accept from his patients unwanted portions of controlled substances he had prescribed to them and to store them in his office for an indefinite period.

47. Dr. Duran did not maintain an inventory or log of these returned medications.

48. On January 23, 2003, agents of the Medical Board visited Dr. Duran's

medical clinic and confiscated all drugs stored there which bore patients' names. Twenty containers of controlled substances, including narcotics and benzodiazepines, representing prescriptions for fifteen different patients, were seized. Six bottles containing drug samples were seized as well.

FIRST CAUSE FOR DISCIPLINE–GG

(Gross Negligence, Incompetence)

49. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in that he provided care and medications to patient GG while he was hospitalized in a facility in which respondent did not have privileges to practice medicine.

SECOND CAUSE FOR DISCIPLINE–GG

(Gross Negligence, Incompetence, Labeling)

50. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to sections 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and 4170 (labeling) in that he provided envelopes containing dangerous drugs to patient GG without proper labeling or instructions.

THIRD CAUSE FOR DISCIPLINE–GG

(Gross Negligence, Incompetence, Prescribing Without Good Faith Prior Examination and Medical Indication Therefor, Violation of Drug Laws)

51. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to sections 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), 2242(a) (prescribing without a good faith prior examination and medical indication therefor), and 2238 (violation of statutes or regulations regulating dangerous drugs or controlled substances), in that he provided controlled substances to GG without a prior examination.

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FOURTH CAUSE FOR DISCIPLINE–GG

(Gross Negligence, Incompetence, Documentation)

52. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 2266 (failure to maintain adequate and accurate records), in that he did not record any of his interactions with GG in GG's hospital record including the fact that he had provided him with controlled substances.

FIFTH CAUSE FOR DISCIPLINE–GG

(Gross Negligence, Incompetence, Documentation)

53. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to sections 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 2266 (failure to maintain adequate and accurate records), in that he regularly accepted from his patients unwanted portions of controlled substances he had prescribed to them and stored them in his office for an indefinite period and in that he failed to maintain an inventory or log of these returned medications.

PATIENT KN

54. KN, a 21 year old woman, was referred to Dr. Duran for a pain consultation in June, 2000 by the physician then treating her for migraine headaches. Dr. Duran thereafter assumed KN's treatment.

55. KN was treated by Dr. Duran from June 6, 2000 through October 10, 2003 when he terminated their physician-patient relationship.

56. When KN began seeing Dr. Duran, the only controlled substance she was regularly prescribed was a maximum of two pills per day of hydrocodone with acetaminophen (Vicodin). She noted that she also visited the emergency room for analgesia 4 to 5 times a

month.

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57. Dr. Duran diagnosed KN with chronic daily headaches and with migraine headaches. He discontinued the Vicodin and started KN on the controlled substances Oxycontin and OxyIR. A short time later he replaced the Oxycontin and OxyIR with MS Contin and MSIR.

58. Dr. Duran did not document at this point or at any point thereafter that he had discussed the risks of the medications he prescribed, alternative treatments, or potential medication side effects with KN or that he obtained informed consent from her.

59. In July 2000, Dr. Duran added a 75 mcg fentanyl patch and Dilaudid tablets "as needed" to the controlled substances he prescribed for KN. The MS Contin and MSIR were apparently discontinued sometime on or after July 25, 2000–Dr. Duran does not mention them in his chart notes after July 14, 2000.

60. Over the next several months, Dr. Duran documented consistent improvement in KN's activity level although not in symptoms. Nursing notes for the period from June 2000 through January 2001 reflect serious concern about KN's medication intake without improvement in symptoms.

61. Dr. Duran began tapering KN off the fentanyl patch in September 2000. In October 2000 Dr. Duran once again increased the strength of fentanyl patch to 100 mcg and reintroduced hydrocodone on an "as needed" basis into KN's medication regimen. In November 2000, he reduced the strength of the fentanyl patch to 75 mcg.

62. The chart notes reflect that KN's activity level continued to improve. She was attending school, golfing, tutoring up to five hours a day, making jewelry.

63. In February 2001, KN returned to school full time at SMC and got a job working at the UCLA physics laboratory.

64. Except for a couple of dips to 50 mcg, the fentanyl patch remained for the most part at 75 mcg through May 2002 when it was raised to 100 mcg.

65. In March 2001, Dr. Duran added Valium on an "as needed" basis to KN's medication regimen. In April 2001, Dr. Duran discontinued KN's Dilaudid and began

prescribing Methadone as needed for her pain.

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66. In May 2001, KN advised Dr. Duran that she had been accepted as an undergraduate at UCLA.

67. KN's chart notes for December 17, 2001 reflect that KN was doing worse, having problems walking, and was vomiting with a headache. Dr. Duran continued her medications without change or discussion.

68. In February 2002, Dr. Duran increased KN's methadone dosage.

69. In March 2002, Dr. Duran replaced hydrocodone with Actiq, a Schedule II controlled substance, as needed for pain. Dr. Duran continued prescribing Actiq throughout the rest of the time he treated KN and KN regularly exceeded the prescribed dosage. By August 2002, Dr. Duran was also regularly prescribing hydrocodone for KN again.

70. On May 2, 2002, Dr. Duran noted that KN was doing worse, feeling sick all the time, and very busy with school, tutoring, and work. His treatment plan was for her to decrease activities and increase medication. He increased the dosage of the Actiq lozenges he was prescribing from 600 mcg each to 800 mcg each.

71. On May 15, 2002, Dr. Duran described KN as "off balance" and having difficulties keeping up with school activities. He made no change in her medications.

72. In July 2002, Dr. Duran began prescribing injectable Demerol.

73. Dr. Duran noted in July and August 2002 that KN was continuing to work in the laboratory. He noted on September 9, 2002 that Actiq provided excellent headache relief and that methadone provided no headache relief.

74. In October 2002, Dr. Duran began noting that KN was doing worse and that her activity level was decreasing. On October 17, 2002, KN's chart reflects vomiting and dizziness the night before and indicates the intention to write a "letter to UCLA for one quarter of[f] school for medical reasons." He made no change to her medications.

75. In early November 2002, Dr. Duran began a sexual relationship with KN which continued through August or September 2003. They had sexual intercourse at KN's

home, sometimes when Dr. Duran came to inject KN with pain medication. When KN suggested

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that she seek another physician, Dr. Duran told her that no other doctor could help her as much as he.

76. Dr. Duran noted throughout December 2002 that KN was doing worse and that her activity level was decreasing. On December 17, 2002, he described her as groggy, uncomfortable, tearful, and with unsteady gait. He increased her Actiq intake "due to pain" noting that medications had not helped her severe neck and headache pain.

77. In January 2003, Dr. Duran received a letter from the Blue Cross clinical pharmacist manager noting that KN had been identified through the members-at-risk program. She had received 20 or more prescriptions in the last quarter of 2002 of which at least 15 were for controlled substances. There is no indication that Dr. Duran investigated KN's medication use or that he reevaluated or reassessed his treatment of KN as a result of receiving this letter.

78. Dr. Duran did not maintain accurate and complete records of KN's prescriptions and refill dates.

79. KN's chart note for January 10, 2003 reflects that she was working again but the January 28, 2003 note reflects that her activity level had decreased and that her headache was worse and she had missed work.

80. KN's activity level continued to decrease and her condition to worsen. She lost her job around this time because of excessive absences. On February 23, 2003, Dr. Duran increased KN's methadone dosage and on March 21, 2003, he discontinued KN's Demerol and hydrocodone and increased the dosage of the Actiq lozenges he was prescribing to 1200 mcg each and added Fiorinal on an "as needed" basis. He reintroduced hydrocodone in May.

81. On March 28, 2003, KN was seen in consultation by Hyman Gross, M.D., a neurologist. Dr. Gross wrote in his consultation letter to Dr. Duran that KN had not gotten significant relief from any medication and noted that she was currently taking Actiq "1-5 times a day." In the three months preceding KN's evaluation by Dr. Gross, January, February, and

March 2003, KN was actually taking Actiq, on average, 10.6, 11.3, and 15.7 times a day, respectively and Dr. Duran was prescribing it for up to 8 times daily, as needed, except for a short period of time in February when he prescribed it for up to 12 times daily, as needed. Dr. Duran did not comment on or address KN's misrepresentation.

82. Dr. Gross recommended a psychiatric and psychological consultation, psychotherapy, and stabilization of antidepressant medication. He also stated that he felt KN's narcotic analgesics were associated with a chemical dependency which confused her ability to obtain any response "and, in fact, might be inducing a rebound form of head pain." He advised her to attempt tapering her narcotic analgesics by approximately 10% every ten days and said that she might require admission to a detoxification program.

83. On March 29, 2003, Dr. Duran noted Dr. Gross's recommendation that KN seek psychiatric care and said that he agreed with Dr. Gross's recommendations. He did not comment upon Dr. Gross's concern about KN's chemical dependency, did not obtain consultation with an Addiction Medicine specialist, and did not attempt to taper KN's use of narcotic analgesics.

84. Although KN did undertake psychiatric treatment, Dr. Duran did not attempt to coordinate care with her psychiatrist or otherwise communicate with her psychiatrist.

85. KN reported to Dr. Duran on April 4, 2003 that she was feeling very dizzy. He made no changes in her medication.

86. KN reported on April 4th that the Fiorinal was helping her. Throughout the time she was under Dr. Duran's care, KN consistently used more than the four to six pills he prescribed for her, some months more than doubling the prescribed dosage. Dr. Duran did not address this overusage.

87. Through the rest of April and May KN's symptoms generally worsened. On April 14th Dr. Duran wrote a note saying that "due to her ongoing medical condition [KN] was unable to take any classes during spring quarter."

88. On May 19, 2003, Dr. Duran noted that he planned to taper KN's medications. KN's use of Fiorinal continued to increase and there was no significant decrease in

her use of other medications until September 2003.

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89. The nursing notes for June 5, 2003, reflect that KN came into the office distraught and staggering and was rude to the staff. She had several long red cut lines on her wrists and admitted to cutting her wrists to try to end her life because the pain was so severe. She was sobbing on the exam table after seeing Dr. Duran and was unable to walk by herself. She remained in the office for three hours during which time she talked on the phone several times with Dr. Duran before the staff felt comfortable releasing her to her mother's custody. Other than documenting that KN was very upset, crying, irritable, and angry, Dr. Duran's chart notes for June 5th did not address KN's distraught affect and did not reflect her staggering or apparent suicide attempt at all. Nor did he address these concerns on KN's next visit, June 11th. Other than reciting his diagnoses, Dr. Duran's chart notes reflect only that KN wanted injections and a refill for Actiq and said that she felt better.

90. On July 1, 2003, Dr. Duran noted without comment KN's report of having fallen on June 17th and suffered a concussion and amnesia. He made no change to her medications.

91. A nursing note for July 20, 2003 states that KN had called the office crying and upset saying she was in severe pain, that she had spoken to Dr. Duran the day before, and that he was supposed to have called her back and did not. She told the nurse that she could not go to the emergency room because of the cut marks on her arm. The nurse left a message with KN's psychiatrist because she was alarmed by the conversation and felt that KN might harm herself. No mention was made of this interaction in Dr. Duran's chart notes for KN's next visit on August 1, 2003. He made no change to her medications.

92. On October 3, 2003, KN was late for her appointment with Dr. Duran and was told that he could not see her. She started crying and throwing her personal property around the waiting room. She could not stand straight and had her pants fully undone while she adjusted her pantyhose. She said that she needed medication and letters for school and Dr. Duran was brought out and told her he would take care of them until the following week. While waiting for

these items, KN was yelling and swearing and insulting the staff. She said that she was going to find another doctor. There is no evidence of any follow up after this incident.

93. On October 10, 2003, Dr. Duran sent a letter to KN advising her that as of November 10, 2003 he would no longer provide her with medical treatment because her "abrasive and abusive behavior" toward him and his staff was intolerable. He wrote that "[o]ver the years in treatment there as [*sic*] been no significant improvement." He went on to say that he felt her condition required further treatment that he no longer felt comfortable overseeing. He attached prescriptions for 30 days of medication, a list of physicians, and some of her medical records. He urged KN to find a new physician without delay and stated that he would not treat her for more than thirty days during which time he would consult by telephone on an emergency basis only. He did not provide her with a referral to another physician.

SIXTH CAUSE FOR DISCIPLINE–KN

(Gross Negligence, Incompetence)

94. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in that he failed to evaluate KN for possible addiction or other reasons for her significantly decreased function despite signs suggesting addiction, psychological and psychiatric problems, loss of control with medications, and worsening physical symptoms.

SEVENTH CAUSE FOR DISCIPLINE–KN

(Gross Negligence, Incompetence, Excessive Prescribing)

95. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 725 (excessive prescribing) in that he allowed KN almost "at will" access to quantities of controlled substances despite demonstrated noncompliance, emotional instability, and deteriorating function.

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EIGHTH CAUSE FOR DISCIPLINE–KN

(Sexual Misconduct)

96. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 726 (sexual misconduct) in that he engaged in a sexual relationship with KN while he was her treating physician.

NINTH CAUSE FOR DISCIPLINE–KN

(Repeated Negligent Acts, Incompetence, Documentation)

97. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (c) (repeated negligent acts), and (d) (incompetence), and section 2266 (failure to maintain adequate and accurate records), in that he engaged in the conduct alleged in the First through Seventh and Tenth through Seventeenth Causes for Discipline and in that he failed to keep accurate and complete records of KN's prescriptions and refill dates to facilitate regular monitoring of compliance.

TENTH CAUSE FOR DISCIPLINE–KN

(Repeated Negligent Acts, Incompetence)

98. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (c) (repeated negligent acts), and (d) (incompetence), in that he engaged in the conduct alleged in the First through Seventh, Ninth, and Eleventh through Seventeenth Causes for Discipline and in that he failed to comment on or obtain a consultation with a specialist in Addiction Medicine after receiving a report from a consulting neurologist diagnosing chemical dependency.

ELEVENTH CAUSE FOR DISCIPLINE–KN

(Repeated Negligent Acts, Incompetence)

99. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (c) (repeated negligent acts), and (d) (incompetence), in that he engaged in the conduct alleged in the First through Seventh, Ninth, Tenth, and Twelfth through Seventeenth Causes for Discipline and in that he failed to communicate with or coordinate treatment with KN's psychiatrist.

TWELFTH CAUSE FOR DISCIPLINE–KN

(Repeated Negligent Acts, Incompetence)

100. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (c) (repeated negligent acts), and (d) (incompetence), in that he engaged in the conduct alleged in the First through Seventh, Ninth through Eleventh, and Thirteenth through Seventeenth Causes for Discipline and in that he treated KN's headache with round the clock short acting medications, especially considering her increasing disability.

THIRTEENTH CAUSE FOR DISCIPLINE–KN

(Repeated Negligent Acts, Incompetence)

101. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (c) (repeated negligent acts), and (d) (incompetence), in that he engaged in the conduct alleged in the First through Seventh, Ninth through Twelfth, and Fourteenth through Seventeenth Causes for Discipline and in that he failed to document that he had discussed the risks of the medications he prescribed, alternative treatments, or potential medication side effects with KN or that he obtained informed consent from her.

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FOURTEENTH CAUSE FOR DISCIPLINE–KN

(Gross Negligence, Incompetence)

102. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in his overall care of KN.

PATIENT CS

103. CS was referred to Dr. Duran by another physician for a cervical selective nerve root injection at C5, 6. She had previously undergone an anterior cervical diskectomy and fusion and carried a diagnosis of cervical radiculopathy.

104. CS first saw Dr. Duran on December 12, 2002 at the Pacific Pain Institute in Santa Monica. She was 42 years old. Dr. Duran evaluated CS, obtained an informed consent for the procedure, and performed a fluoroscopically guided selective nerve root injection.

105. The procedure was done with CS in the prone position. Dr. Duran stated in his dictated procedure notes that he palpated the spinous processes of C5, C6, and C7 and performed a left C5,6 transforaminal epidural injection. One ml of Isoview 200 was injected followed by two ml of local anesthetic and steroid. CS received intramuscular Demerol and Valium in the post anesthesia care unit.

106. Dr. Duran stated in his dictated procedure notes that "the appropriate neural foramen was identified. AP projection and lateral projection revealed adequate needle placement." With a patient in the prone position, it is impossible to identify the neural foramen and pass a needle safely into that structure. The neural foramen must be approached from an anterior/lateral position which is not available when the patient is in the prone position.

107. CS saw Dr. Duran in his office for follow up on December 17, 2002. Dr. Duran's notes reflect that CS was being evaluated for "unchanged left arm weakness and difficulty in neck movement." He also mentions that CS was "status post posterior surgery to the

cervical spine then several months after having anterior cervical diskectomy fusion with plate, in which she still suffers from neck pain and the inability to turn her head in either direction without experiencing severe pain. She states her pain is mostly throbbing with tenderness when the cervical area is palpated."

108. Dr. Duran treated CS's myofascial pain with trigger pont injections of the shoulder and cervical muscles and prescribed 30 tablets of 100 mg Demerol, one tablet to be taken each night. He did not give a rationale and did not state functional therapeutic goals.

109. Dr. Duran next saw CS in his office on January 2, 2003. She reported improvement of the left upper extremity but complained of right upper extremity numbness which had been worsening over the prior ten days. Dr. Duran filled out disability forms for CS.

110. Dr. Duran prescribed 60 tablets of Demerol 100 mg. He directed CS to take 2 pills every evening. Again, he gave no rationale or functional therapeutic goals, did not order any imaging studies, and did not refer CS to a specialist.

111. On January 10, 2003, Dr. Duran performed a repeat selective nerve root block on CS and injected her cervical facet joints.

112. CS was again in the prone position and Dr. Duran passed a 25 gauge needle to the left of the C4,5, C5,6, and C6,7 facet joints. Dr. Duran injected 0.25 ml of contrast followed by 1 ml of a solution of local anesthetic and steroid into each joint.

113. Dr. Duran also performed a left selective nerve root injection. The procedure note reflects that fluoroscopy was used but there is no mention of a confirmation of needle positioning on fluoroscopy and there is no evidence in the record of proper needle placement for the selective nerve root injection.

114. The quality of the fluoroscopic image is poor and the positioning of the x-ray beam is inadequate to identify any of the key features on the anatomy such as the targeted facet joints, the cervical midline, the targeted neural foramen, or the uncinate processes, which identify the margins of the spinal canal.

115. In his dictated procedure note, Dr. Duran stated that "the C5 neuroforamen was identified. The needle tip was carefully walked into said foramen." With a patient in the

prone position, it is impossible to identify the neural foramen and pass a needle safely into that structure. The neural foramen must be approached from an anterior/lateral position which is not available when the patient is in the prone position.

116. In the post anesthesia care unit, approximately 10 minutes after the procedure, Dr. Duran noted that CS had right hand and arm weakness and numbness with right breast and anterior chest wall numbness. No physical examination is noted. Dr. Duran speculated in his notes that it was likely that the cause of the right-sided symptoms was mechanical pressure from the three ml of contrast, local anesthetic, and steroid he had injected into the left epidural space. He did not include the differential diagnosis of spinal hematoma, a potential surgical emergency.

117. At 4:20 p.m. on January 10, 2003, CS spoke to Dr. Duran's office by telephone complaining of paralysis of the left arm and hand and described right upper extremity weakness and decreased sensation to pinprick to Dr. Duran. Dr. Duran instructed the patient to increase her Valium use over the weekend. He did not order or perform an immediate and thorough evaluation.

118. On January 13, 2003, Dr. Duran wrote a prescription for CS for 120 tablets of Demerol 100 mg, directing her to take two tablets twice a day. Still he did not refer her to a specialist or perform spinal imaging or any kind of an evaluation.

119. On January 17, 2003, Dr. Duran saw CS at his office. She was having right trunk and upper extremity numbness. Dr. Duran noted that CS's left upper extremity and bilateral lower extremities had normal sensation and motor examinations. His impression was that the left upper extremity symptoms had resolved and the new right upper extremity symptoms were likely "nerve root irritation/pressure from the selective nerve root injection." The treatment plan included a neurology consult "next visit" and reduction of Demerol, Valium, Soma, and Zanaflex to "improve urination."

120. On January 19, 2003, CS telephoned Dr. Duran at 9:00 p.m. complaining of increased swelling and pain in the right shoulder and right upper extremity and skin splitting in the hand. Dr. Duran advised her to increase her Neurontin to 600 mg twice a day and start

Lasix 20 mg twice a day and to follow up by phone the next day.

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121. On January 20, 2003, Dr. Duran spoke to CS by telephone at 11:30 a.m. She reported decreased swelling and minimal pain. She was noted to be having urination and bowel movements without problems.

122. Between January 22 and January 24, 2003, CS was admitted to the UCLA hospital with a diagnosis of "right upper extremity weakness and numbness." An MRI of the cervical spine revealed a focal hyperintensity to the right of the midline in the cervical spinal cord between C4 and C7 on T2 weighted images. There was also a smaller area of hyperintensity in the left cord at C5 and C6. She also had an MRI of the brain showing no evidence of a demyelenating disease. She was discharged on Demerol, Valium, and Decadron and advised to follow up with pain management and neurology specialists for further treatment.

123. On March 10, 2003, Dr. Nicholas Barbaro, Professor of Neurological Surgery at the University of California, San Francisco ("UCSF") Medical Center evaluated CS. The examination was significant for clawing of CS's right hand with difficulty using intrinsic hand muscles. The hand was cool to the touch and there was atrophy of the hand and forearm muscles. CS had poor ability to use most muscles of the right upper extremity, worse distally than proximally. She also had difficulty flexing and extending the right ankle. Her reflexes were increased throughout upper and lower extremities.

124. An MRI of CS's cervical spine was obtained at the Mad River Hospital on July 9, 20o03. The sagittal images showed a "possible small syrinx [a pathological tubular cavity in the spinal cord] or hydromyelia in the lower cervical cord and upper thoracic cord."

125. A repeat MRI of CS's cervical spine was obtained on November 14, 2003 at St. Joseph Hospital in Eureka, California. It showed "a lengthy intraspinal lesion that looks most consistent with a syrinx to the right of the midline extending from the lower body of C3 through the T3-4 region."

126. Between approximately February 2003 and May 2004, CS received care from Kurt Osborn, M.D., a neurologist, whose early diagnosis was right upper extremity near

insufficiency, hypotension, and bradycardia.

FIFTEENTH CAUSE FOR DISCIPLINE–CS

(Gross Negligence, Incompetence)

127. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in that he failed to recognize the seriousness of CS's condition and to follow up with appropriate evaluations, examinations, and referrals to specialists.

SIXTEENTH CAUSE FOR DISCIPLINE–CS

(Gross Negligence, Incompetence)

128. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in that he performed cervical facet injections and cervical selective nerve root blocks on CS without the understanding of the anatomy and technique necessary to perform them.

SEVENTEENTH CAUSE FOR DISCIPLINE–CS

(Gross Negligence, Incompetence)

129. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), in that he performed a cervical selective nerve root block on CS with her in a prone position which precluded an appropriate anterior/lateral approach to the neural foramen.

PATIENT JW

130. Patient JW was referred to Dr. Duran by her psychotherapist. Before Dr. Duran assumed JW's treatment, the psychotherapist described JW's psychological history to him in detail and told him that she had a history of poly-substance abuse and suffered from bipolar disorder, borderline personality disorder, and anorexia.

131. JW told Dr. Duran that she had been diagnosed with thoracic outlet syndrome approximately two years earlier and that she suffered from migraine headaches associated with her menstrual cycle. Dr. Duran's initial History and Physical lacks significant detail, reflects the diagnoses described by JW without noting any objective factors of disability or offering any rationale or support for them, and contains no discussion of JW's previous drug and alcohol history.

132. This failure to perform adequate physical examinations and to discuss JW's history of addiction continued throughout the more than three year period Dr. Duran treated JW. During this period, he prescribed numerous controlled substances for JW including OxyContin, Duragesic patches, morphine sulphate, hydrocodone, methadone, Demerol, Adderall, and Ritalin. All of these are Schedule II controlled substances except for hydrocodone which is a Schedule III controlled substance.

133. Dr. Duran did not discuss with JW the risk of addiction carried by these controlled substances and did not discuss the potential side effects and complications of the substances. This is of special concern in this situation because the risk of addiction is significantly higher in patients with previous addiction problems than in the general population and because amphetamines pose a significant risk of producing mania in a patient with bipolar disorder.

134. Dr. Duran's chart for JW reflects virtually no discussion of JW's psychological status and no contact with her psychotherapist or psychiatrist even when she presented with a tearful, sad affect and claimed to be depressed.

135. In response to JW's complaints of fatigue and excessive sleepiness, Dr. Duran started JW on Adderall in February 2002 and in April 2002 switched her to Ritalin. He prescribed Ritalin for JW from April 2002 through June 2004 when she left his practice to enter a detoxification facility. He prescribed it without objective evidence of sedation, without attempting to determine if JW's symptoms were related to depression or to her bipolar disorder, and without noting her lack of response to Ritalin. There was no basis for giving Ritalin to JW and the doses he prescribed were beyond any reasonable use. He prescribed doses as high as 120

to 140 mg per day.

136. At the beginning of 2003, Dr. Duran did not see JW for a period of over two months and at the end of 2003, he let three to four months pass without seeing her, yet he continued to prescribe significant quantities of opiates and amphetamines for her. Because of JW's long history of drug and alcohol abuse, multiple psychiatric issues, lack of documented physical abnormalities, and the high doses of both opiate and amphetamine products she was taking, she should have been seen at least monthly.

137. Dr. Duran prescribed Demerol for JW without rationale and in increasing doses, especially from April 2004 through June 2004 when she left his practice and entered a detoxification facility. From April 2004 through June 2004, he prescribed from 4 to 10 injections of Demerol daily for JW. From May 11 through June 28, 2004, he was prescribing from 400 to 1000 mg of Demerol per day, averaging over 700 mg a day. There is absolutely no possible rationale for providing a patient with injectable Demerol on such a frequent basis. Especially without close monitoring and Dr. Duran was seeing JW at most on monthly basis and did not see her at all for a six week period from the end of April to June 11, 2004. Demerol is an inappropriate medication for long-term use. It has an extraordinarily high abuse potential, a significant potential for causing harm with sterile abscesses when injected 4 to 10 times per day, and metabolic breakdown products which cause hyperirritability and, sometimes, seizures.

EIGHTEENTH CAUSE FOR DISCIPLINE–JW

(Gross Negligence)

138. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter) and (b) (gross negligence), in that his initial History and Physical for JW lacks significant detail, reflects the diagnoses described by JW without noting any objective factors of disability or offering any rationale or support for them, and contains no discussion of JW's previous drug and alcohol history.

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NINETEENTH CAUSE FOR DISCIPLINE–JW

(Gross Negligence)

139. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter) and (b) (gross negligence), in that he filed to provide JW with an informed consent including the risk of addiction when starting her on OxyContin, Adderall, and Ritalin.

TWENTIETH CAUSE FOR DISCIPLINE–JW

(Gross Negligence, Incompetence, Excessive Prescribing)

140. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 725 (excessive prescribing) in that he prescribed for JW excessive amounts of Demerol, a controlled substance with an extraordinarily high abuse potential, a significant potential for causing harm with sterile abscesses when injected as frequently as JW was injecting, and metabolic breakdown products which cause hyperirritability and, sometimes, seizures.

TWENTY-FIRST CAUSE FOR DISCIPLINE–JW

(Gross Negligence, Incompetence, Excessive Prescribing)

141. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 725 (excessive prescribing) in that he prescribed excessive doses of Ritalin to JW, a patient with a history of drug and alcohol abuse and bipolar disorder.

TWENTY-SECOND CAUSE FOR DISCIPLINE–JW

(Gross Negligence, Incompetence, Excessive Prescribing)

142. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to

section 2234, subsections (a) (violating provisions of this chapter), (b) (gross negligence), and (d) (incompetence), and section 725 (excessive prescribing) in that he prescribed large amounts of oral opiate medication without objective factors of disability, without documentation for prescribing the medication, without improved function and with a history of addiction to prescription medication and alcohol and bipolar disorder.

TWENTY-THIRD CAUSE FOR DISCIPLINE–JW

(Gross Negligence)

143. Respondent's certificate to practice medicine is subject to disciplinary action under Business and Professions Code section 2234 for unprofessional conduct pursuant to section 2234, subsections (a) (violating provisions of this chapter) and (b) (gross negligence), in that he did not see JW for a period of three to four months while prescribing significant quantities of opiates and amphetamines for her.

TWENTY-FOURTH CAUSE FOR DISCIPLINE–GG, KN, CS, JW

(Repeated Negligent Acts)

144. Respondent's conduct as set forth in the First through Seventh and Ninth through Twenty-Third Causes for Discipline, collectively, constitutes repeated negligent acts and is cause for disciplinary action pursuant to Business and Professions Code section 2234(c).

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division of Medical Quality of the Medical Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 60506 issued to Paul Joseph Duran, M.D.;

2. Ordering Paul Joseph Duran, M.D. to pay the division the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

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3. Prohibiting respondent from supervising physician's assistants; and

4. Taking such other and further action as deemed necessary and proper.

DATED: July 29, 2005.

DAVID T. THORNTON
Executive Director
Medical Board of California

State of California
Complainant